

FILED 08 MAR 03 1448 USDC-ORE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

QUINTON LEWIS,

Petitioner, Civil No. 07-1472-TC

v. FINDINGS AND
RECOMMENDATION

STATE OF OREGON,

Respondent.

COFFIN, Magistrate Judge.

By Order (#4) entered October 23, 2008, petitioner was advised that Local Rule 295-1 (a) requires petitions for habeas corpus relief to be filed on form supplied by the court. Petitioner was allowed 30 days to file an amended petition consistent with the requirement of the rule and the Clerk of the Court was directed to send petitioner the

appropriate form.

On November 19, 2007, petitioner filed an "Amended Complaint" (#5) which did not comply with the court's order (#4) and did "not make any sense." See, Order (#6). The court observed that petitioner has another case pending before Judge Hogan, Civ. No. 07-478-HO, and that petitioner "may have his cases or case numbers mixed up." Id.

Petitioner was allowed an additional 30 days to file an amended petition on the proper form and the clerk was again requested to send petitioner the proper form.

On December 12, 2007, petitioner filed a "Proof of Service to Amend" (#7). Petitioner's amended pleading (#7) does not comply with the requirement of Local Rule 295-1 (a) or the court's Order (#4).

Petitioner's claims alleged in his Amended Petition (#5) and "Proof of Service to Amend" (#7) should be denied without prejudice.

This proceeding should be dismissed for failure to prosecute and failure to comply with a court order.

This recommendation is not an order that is immediately appealable to the Ninth Circuit Court of Appeals. Any notice

of appeal pursuant to Rule 4(a)(1), Federal Rules of Appellate Procedure, should not be filed until entry of the district court's judgment or appealable order. The parties shall have ten (10) days from the date of service of a copy of this recommendation within which to file specific written objections with the court. Thereafter, the parties have ten (10) days within which to file a response to the objections. Failure to timely file objections to any factual determinations of the Magistrate Judge will be considered a waiver of a party's right to de novo consideration of the factual issues and will constitute a waiver of a party's right to appellate review of the findings of fact in an order or judgment entered pursuant to the Magistrate Judge's recommendation.

DATED this 3 day of February, 2008.



Thomas M. Coffin
United States Magistrate Judge